

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

DIANE H. KENNEDY,

Debtor.

DAIMLERCHRYSLER FINANCIAL
SERVICES AMERICAS LLC,

Appellant,

-against-

DIANE H. KENNEDY,

Appellee.

Chapter 7

Bankruptcy Court
Case No. 07-35532 (CGM)

District Court Civil Docket
Case No. 08-cv-03414 (CLB)

STIPULATION AND ORDER DISMISSING APPEAL

Appellant, DaimlerChrysler Financial Services Americas LLC ("Chrysler Financial") and Appellee, Diane H. Kennedy ("Debtor"), by and through their counsel designated below, hereby stipulate, pursuant to Fed. R. Civ. P. 41(a)(1)(ii) and Fed. R. Bankr. P. 8001(c)(2), to dismiss the appeal made to this Court on April 7, 2008, by Chrysler Financial.

Chrysler Financial's appeal was from the March 13, 2008, Order of the Bankruptcy Court which approved the Debtor's application to avoid Chrysler Financial's judicial lien pursuant to 11 U.S.C. § 522(f). The underlying judgment, which granted Chrysler Financial a judicial lien on Debtor's property, was vacated by the July 10, 2008, Order of the United States District Court, Northern District of New York overturning the Court's prior entry of a default judgment. Thus, this appeal is now moot as the judgment is without force and effect, and the action must be dismissed, without prejudice.

Dismissal of the appeal will not prejudice any other party to this case. All court costs and fees due have been paid. The parties to the appeal shall bear their own fees and costs.

Dated: July 30, 2008

DaimlerChrysler Financial Services
Americas LLC (Appellant)

By: 

Scott T. Dillon, Esq.
Deily, Mooney & Glastetter, LLP
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Albany, NY 12203
Tel: (518) 436-0344

Dated: July 29, 2008

Diane H. Kennedy (Appellee)

By: 

Andrea B. Malin, Esq.
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Wappingers Falls, NY 12590
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DISMISSAL OF APPEAL IS SO ORDERED:

United States District Judge

Dated: _____, 2008